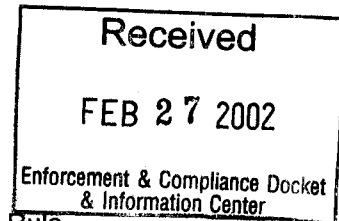


EC-2000-007  
IV-D-092

S.C. JOHNSON & SON, INC  
1525 Howe Street  
Racine, WI 53403-2236

February 27, 2001

United States Environmental Protection Agency  
Enforcement and Compliance Docket and Information Center  
Mail Code 2201A  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
Attn: Docket Number EC-2000-007



RE: Establishment of Electronic Reporting; Electronic Records; Proposed Rule  
66 FR 46162-46195; August 31, 2001  
Docket Number: EC-2000-007

Dear Document Control Officer:

S.C. Johnson appreciates the opportunity to submit comments to the U.S. Environmental Protection Agency (EPA) on its August 31, 2001 proposed rule to establish electronic reporting and recordkeeping requirements [66 *Federal Register* 46162-46195]. S.C. Johnson is a family-owned company in operation since 1886. We employ over 9,000 people worldwide. Our consumer products include Shout, Windex, Mr. Muscle, Ziploc, Edge, Glade, Vanish, Raid, OFF!, Pledge, and Scrubbing Bubbles.

S.C. Johnson's research and manufacturing operations comply with the full range of environmental regulations under Title 40 of the CFR, including requirements for chemical substances, pesticides, waste, water, air, community right-to-know, and emergency planning and prevention. To implement our safety, health, and environmental compliance programs, we procure, develop, maintain, and update a variety of state-of-the-art information management systems. The proposed requirements would significantly affect our compliance systems and business operations, particularly our information management systems.

One part of EPA's proposal would establish the option for companies to submit documents electronically to EPA, through a Central Data Exchange. We support EPA's efforts to enable electronic reporting *as long as electronic submission remains voluntary*. In order for electronic reporting to remain voluntary, EPA must preserve all existing methods for submitting reports on paper and magnetic media.<sup>1</sup>

On the other hand, the proposed electronic recordkeeping requirements would not be voluntary, and we urge EPA to reconsider them. **Our main concerns about the proposed recordkeeping requirements are as follows.**

- **Although EPA calls the proposed requirements voluntary, they clearly would be mandatory.** EPA proposes a new Title 40 CFR Part 3 Subpart C which lists "requirements for acceptable electronic records," not voluntary guidelines.<sup>2</sup> EPA's logic that the requirements are

voluntary is based on the assumption that companies currently are using paper-only recordkeeping systems. This is not the case in our company or any other company of which we are aware. S.C. Johnson currently keeps records electronically under the requirements of many EPA programs. The proposed new 40 CFR Part 3 Subpart C requirements for computer system characteristics would be no more voluntary than any of EPA's other regulations in the CFR.

- **The proposed recordkeeping requirements would affect almost every computer system in our company.** EPA's proposed 40 CFR 3.3. definitions of *electronic record*<sup>3</sup> and *electronic record retention system*<sup>4</sup> are so broad as to encompass virtually any environmental data that pass through a computer at any time. S.C. Johnson uses a number of computer applications to support research and development, manufacturing, distribution, sales and accounting, customer support, pesticide registration and labeling, environmental compliance, evaluation of health and safety information, and other operations. These computer applications include systems we have developed in-house and/or purchased from vendors. Many of them are integrated to share information, and a number of systems may be involved for any given environmental recordkeeping.

For example, as we prepare this year to address Inventory Update Rule (IUR) reporting under the Toxic Substances Control Act (TSCA), we will gather data from various computer systems including those for manufacturing, purchasing, receiving, and keeping chemical inventories. There is a four-year recordkeeping requirement for this information: 40 CFR 710.37 requires companies to maintain records that document any information reported to EPA under the IUR, and to keep volume records as evidence for any decision not to report. Thus, under the proposed recordkeeping requirements, any computer system that contains information used for our IUR reporting would need to meet EPA's criteria. For this one example TSCA requirement, several major computer systems would be affected, and Title 40 contains many hundreds of recordkeeping requirements.

- **Changing our systems to meet the proposed requirements would be extremely difficult and costly, if not infeasible.** Meeting the proposed requirements would require major changes to many of our computer systems. The proposed criteria for recordkeeping systems greatly exceed actual best practices in this area. For example, computer systems used for environmental recordkeeping generally do not have "computer-generated, time-stamped audit trails," as proposed section 3.100(a)(6) would require. Criteria in proposed sections 3.100(a)(8) and 3.100(a)(9) would effectively require that hardware and software be kept operational for the entire life of the records retention period, which could be many years, even decades in some cases.<sup>5</sup> Changing computer systems to the proposed criteria would be a complex project involving analysis of all current systems, evaluation of the need for new systems, recoding existing computer programs, developing new forms and reports, and documentation and training. Based on our experience with computer system upgrading projects, the cost for a company like ours could reach millions of dollars.
- **The proposed requirements are not an appropriate approach to address EPA's concerns about fraud.** EPA indicates that one of the primary objectives of the proposed requirements is fraud prevention and detection, but the Agency's concerns on this matter are unclear. EPA has seemingly performed no analysis, and provides no discussion of the risk of fraud in electronic records. The Agency has not identified any examples of fraud in the electronic environment.

Nor has EPA explained why existing laws against fraud are sufficient in a paper environment but not in the electronic environment. Our computer systems are designed and maintained by information management professionals and used by business and environmental professionals. It may be that fraud is actually more difficult to perpetrate and easier to detect in an electronic environment than in the paper environment. EPA has not demonstrated that the complex criteria proposed are necessary in order to address fraud concerns.

- **EPA's analyses and information to support the rule are deficient.** EPA is required to conduct several analyses in support of proposed regulations, including analyses required by Executive Order 12866, the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Small Business Regulatory Enforcement Fairness Act. One of the many reasons these analyses are important is that, when done properly, they help the regulated community identify how the proposed regulations may affect them. EPA's analyses for this proposed rule are deficient; they all purport cost savings and no negative impacts. For example, in its cost analysis for the recordkeeping portion of the rule, EPA assumes that only 0.5 percent of facilities will "elect" to implement electronic recordkeeping, and then calculates that the rule will result in net savings. This is contrary to the reality that most companies already do electronic recordkeeping, and cannot practically (or economically) return to all-paper systems.

In conclusion, the proposed recordkeeping requirements would negatively affect our operations without producing any appreciable benefits. We hope that EPA will reconsider the proposed recordkeeping requirements. EPA should allow electronic recordkeeping to continue to evolve as a tool of effective environmental compliance programs, without the constraints of unnecessary prescriptive requirements. We support EPA's efforts to enable electronic reporting, as long as it remains voluntary. S.C. Johnson would be happy to consider participating in work groups or other stakeholder activities that EPA may conduct on these issues.

Sincerely,

John W. Barnett, Ph.D.  
Director, Global Safety Assessment  
And Regulatory Affairs, R,D&E



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Sent by: "Rosin,  
Sharon E."  
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To: "docket.oeca@epa.gov" <docket.oeca@epamail.epa.gov>  
cc:  
Subject: Docket Number: EC-2000-007

02/27/02 04:31 PM

Dear Docket Control Officer:

Please see the attached regarding Establishment of Electronic Reporting,  
Electronic Records, Proposed Rule. Docket Number: EC-2000-007.

Thanks.

John W. Barnett, Ph.D.  
Director, Global Safety Assessment  
and Regulatory Affairs, R,D&E

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